

937(c) or under section 7654 to be provided to the Internal Revenue Service, the appropriate tax authority is the Commissioner. In the case of information required under section 7654 (as in effect with respect to section 935 possessions (as defined in § 1.935-1T(a)(3)(i) of this chapter) to be provided to the tax authorities of a section 935 possession, the appropriate tax authority is the person responsible for tax administration in such possession or his delegate. See § 1.935-1(b) of this chapter for the rules that specify where returns of income tax must be filed for the taxable year by individuals to whom section 935 applies.

(d) *Effective date.* This section shall apply for taxable years ending after October 22, 2004.

[T.D. 9194, 70 FR 18947, Apr. 11, 2005]

§ 301.6689-1T Failure to file notice of redetermination of foreign tax (temporary).

(a) *Application of civil penalty.* If a foreign tax redetermination was made with respect to taxes for which the taxpayer previously claimed the foreign tax credit, and the taxpayer failed to notify the Service on or before the date prescribed in regulations under section 905(c) or in regulations under section 404A(g)(2) for giving notice of a foreign tax redetermination, then, unless paragraph (d) of this section applies, there shall be added to the deficiency attributable to such redetermination an amount determined under paragraph (b) of this section. Subchapter B of chapter 63 of the Internal Revenue Code (relating to deficiency proceedings) shall not apply with respect to the assessment of the amount of the penalty.

(b) *Amount of penalty.* The amount of the penalty shall be equal to—

(1) Five percent of the deficiency if the failure is for not more than one month, plus

(2) An additional five percent of the deficiency for each month (or fraction thereof) during which the failure continues, but not to exceed in the aggregate twenty-five percent of the deficiency. If the penalty imposed under paragraph (a) of this section applies, then the penalty imposed under section 6653(a), relating to failure to pay by

reason of negligent or intentional disregard of rules and regulations, shall not apply.

(c) *Foreign tax redetermination defined.* For purposes of this section, a foreign tax redetermination is any redetermination for which a notice is required under section 905(c) and the regulations thereunder, or section 404A(g)(2) and the regulations thereunder.

(d) *Reasonable cause.* The penalty set forth in this section shall not apply if it is established to the satisfaction of the Service that the failure to file the notification within the prescribed time was due to reasonable cause and not due to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement that sets forth all the facts alleged as reasonable cause for the failure to file the notification on time and that contains a declaration by the taxpayer that the statement is made under the penalties of perjury. This statement must be filed with the service center in which the notification was required to be filed. The taxpayer must file this statement with the notice required under section 905(c) and the regulations thereunder or section 404A(g)(2) and the regulations thereunder. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the notification within the prescribed time, then the delay will be considered to be due to reasonable cause and not willful neglect.

(e) *Effective/applicability date—(1) In general.* This section applies to foreign tax redeterminations (as defined in § 1.905-3T(c) of this chapter) occurring in taxable years of United States taxpayers beginning on or after November 7, 2007, and in the three immediately preceding taxable years. For corresponding rules applicable to foreign tax redeterminations occurring in earlier taxable years of United States taxpayers, see 26 CFR 301.6689-1T (as contained in 26 CFR part 301, revised as of April 1, 2007).

(2) *Expiration date.* The applicability of this section expires on or before November 5, 2010.

[T.D. 8210, 53 FR 23618, June 23, 1988, as amended by T.D. 9362, 72 FR 62788, Nov. 7, 2007]